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INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference P51363	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/US03/18075	International filing date (day/month/year) 06 June 2003 (06.06.2003)	Priority date (day/month/year) 06 June 2002 (06.06.2002)
International Patent Classification (IPC) or national classification and IPC IPC(7): C07D 249/18, 241/42, 247/03, 307/78, 235/04; A61K 31/498, 31/433, 31/4192, 31/4178, 31/343; A61P 31/ and US Cl.: 544/353; 548/127, 128, 257, 262.4, 304.4; 514/ 249, 394, 361, 469		
Applicant SMITHKLINE BEECHAM CORPORATION		
<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>3</u> sheets, including this cover sheet.</p> <p><input checked="" type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of <u>0</u> sheets.</p>		
<p>3. This report contains indications relating to the following items:</p> <p>I <input checked="" type="checkbox"/> Basis of the report</p> <p>II <input type="checkbox"/> Priority</p> <p>III <input type="checkbox"/> Non-establishment of report with regard to novelty, inventive step and industrial applicability</p> <p>IV <input type="checkbox"/> Lack of unity of invention</p> <p>V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p>VI <input type="checkbox"/> Certain documents cited</p> <p>VII <input type="checkbox"/> Certain defects in the international application</p> <p>VIII <input type="checkbox"/> Certain observations on the international application</p>		
Date of submission of the demand 12 December 2003 (12.12.2003)	Date of completion of this report 05 March 2004 (05.03.2004)	
Name and mailing address of the IPEA/US Mail Stop PCT, Attn: IPEA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703) 305-3230	Authorized officer <i>Valerie Bell-Harris for</i> Venkataraman Balasubramanian Telephone No. (703)308-1235	

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application 1

PCT/US03/18075

I. Basis of the report

1. With regard to the elements of the international application:*

- ☒ the international application as originally filed.
- ☒ the description:
 pages 1-10 _____ as originally filed
 pages NONE _____, filed with the demand
 pages NONE _____, filed with the letter of _____.
- ☒ the claims:
 pages 11 _____, as originally filed
 pages NONE _____, as amended (together with any statement) under Article 19
 pages NONE _____, filed with the demand
 pages NONE _____, filed with the letter of _____.
- ☐ the drawings:
 pages NONE _____, as originally filed
 pages NONE _____, filed with the demand
 pages NONE _____, filed with the letter of _____.
- ☐ the sequence listing part of the description:
 pages NONE _____, as originally filed
 pages NONE _____, filed with the demand
 pages NONE _____, filed with the letter of _____.

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item. These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in printed form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages NONE
- ☐ the claims, Nos. NONE
- ☐ the drawings, sheets/fig NONE

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.
PCT/US03/18075**V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. STATEMENT**

Novelty (N)

Claims NONE YES
Claims 1-3 NO

Inventive Step (IS)

Claims NONE YES
Claims 1-3 NO

Industrial Applicability (IA)

Claims 1-3 YES
Claims NONE NO**2. CITATIONS AND EXPLANATIONS**

Claims 1-3 lack novelty under PCT Article 33(2) as being anticipated by WO 02/098901(SMITHKLINE BEECHAM CORPORATION).

WO 02/098901 teaches structurally same compound of formula I, which include compounds and method of use to treat bacterial infection claimed in the instant claims. See entire document. Especially see the definition of Ar on page 3, lines 13-15 and example 25 on page 18.

Claims 1-3 lack an inventive step under PCT Article 33(3) as being obvious over WO 02/098901(SMITHKLINE BEECHAM CORPORATION).

WO 02/098901 teaches generically structurally same compound of formula I, which include compounds and method of use treat bacterial infection claimed in the instant claims. See entire document. Especially see the definition of Ar on page 3, lines 13-15 and example 25 on page 18.

Although applicants disagree with above lack of novelty and inventive step, they have not provided any reasons. hence these rejections are maintained.

WO 02/098901 et al. also teaches the equivalency exemplified compound in example 25 with that recited in the definition of Ar. Thus it would have been obvious to one having ordinary skill in the art at the time of the invention was made to make compounds variously substituted Ar as permitted by the reference and expect resulting compounds (instant compounds) to possess the uses taught by the art in view of the equivalency teaching outline above.

Claims 1-3 meet the criteria set out in PCT Article 33(4), and thus have industrial applicability because the subject matter claimed can be made or used in industry as therapeutic agents for treating bacterial infection.